

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

UPSTATE JOBS PARTY, MARTIN BABINEC,  
AND JOHN BULLIS,

*Plaintiffs,*

v.

PETER S. KOSINSKI, New York State Board of  
Elections Co-Chair Commissioner, DOUGLAS A.  
KELLNER, New York State Board of Elections Co-  
Chair Commissioner, ANDREW J. SPANO, New  
York State Board of Elections Commissioner, and  
GREGORY P. PETERSON, New York State Board  
of Elections Commissioner, all in their official  
capacities,

*Defendants.*

Case No.:  
6:18-cv-00459-GTS-ATB

**CONSENT MOTION TO STAY ATTORNEY'S FEES DEADLINE**

Pursuant to Federal Rules of Civil Procedure 6(b)(1) and 7(b), Plaintiffs Upstate Jobs Party, Martin Babinec, and John Bullis ("Plaintiffs"), jointly move this Court for a stay of the deadline for filing a Motion for Attorney's Fees. Plaintiffs' request that this Court stay the deadline for filing the Motion for Attorneys' Fees until 60 days after the U.S. Court of Appeals for the Second Circuit issues its mandate in the Parties' cross-appeal (ECF Nos 81, 85). Plaintiffs' counsel has conferred with counsel for the Defendants regarding the substance of this Motion. On October 12, 2021, Defendants' counsel consented to the relief requested in the present motion.

In support of this Motion, Plaintiffs state as follows:

1. On September 16, 2021, Plaintiffs filed a Consent Motion for Extension of Time to File an Application for Attorneys' Fees (ECF No. 75).

2. On September 20, 2021, the Court issued an Order granting Plaintiffs' Consent Motion and extending the deadline for filing an application for attorneys' fees to October 22, 2021 (ECF No. 76).

3. On October 6, 2021, Defendants filed a Notice of Appeal to the United States Court of Appeals for the Second Circuit (ECF No. 79). On October 7, 2021, Plaintiffs filed a Notice of Cross-Appeal (ECF No. 81). On October 14, 2021, Defendants filed an amended notice of appeal. (ECF No. 85).

4. Fed. R. Civ. Proc. 6(b)(1) allows for an extension of time, such as that requested in this Motion, for good cause "if a request is made[] before the original time or its extension expires[.]"

5. Because Defendants have noticed an appeal to the Second Circuit and Plaintiffs have noticed a cross-appeal, further proceedings in this matter are now definite and both parties need time to fully brief their arguments on appeal.

6. This extension of time is not sought for any improper purpose, but to allow impending events to play out and the litigation to reach its stopping point. No party will be prejudiced by the requested extension and opposing counsel has consented to the present motion and the relief requested herein.

7. Based on the foregoing, Plaintiffs respectfully request that this Court enter an order pursuant to Fed. R. Civ. P. 6(b)(1) to amend the schedule such that the deadline for filing Motions for Attorneys' Fees is stayed until 60 days after the issuance of the mandate on the Parties cross- appeal.

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Grant this Consent Motion to Stay Attorney's Fees Deadline; and
- B. Grant such other and further relief as the nature of Plaintiffs' cause may require.

DATED: October 14, 2021

Respectfully submitted,

/s/ Shawn Toomey Sheehy

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Shawn Toomey Sheehy (VA 82630)\*  
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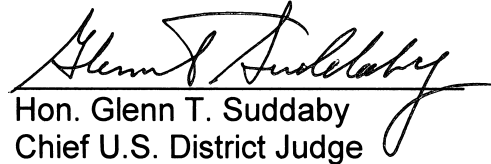
\*admitted *pro hac vice*

/s/ Michael Burger

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*Counsel for Plaintiffs*

IT IS SO ORDERED:

  
Hon. Glenn T. Suddaby  
Chief U.S. District Judge

Dated: 10/19/2021

Syracuse, NY